

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 00-CR-50054-01

vs.

HON. BERNARD A. FRIEDMAN

JAMES DWIGHT LEWIS,

Defendant.

ORDER DENYING DEFENDANT’S MOTION FOR COMPASSIONATE RELEASE

Defendant has filed a motion in this matter for compassionate release pursuant to 18 U.S.C. § 3582 [docket entry 349]. Defendant fears he is at risk of being infected by the coronavirus.

The Court must deny this motion because defendant has not shown that he has complied with the statute’s exhaustion requirement. Section 3582(c)(1)(A) states that

the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier, may reduce the term of imprisonment . . . if it finds that— (i) extraordinary and compelling reasons warrant such a reduction . . .

The Sixth Circuit has held that this exhaustion requirement is mandatory, and that if a defendant files a motion seeking relief under this section without first complying with § 3582(c)(1)(A), the district court must deny the motion without prejudice. *See United States v. Alam*, No. 20-1298, 2020 WL 2845694, *2-5 (6th Cir. June 2, 2020). Defendant impliedly concedes that he has not complied with this requirement by arguing that doing so “would be futile.” Def.’s

Mot. ¶ 16. Accordingly,

IT IS ORDERED that defendant's motion for compassionate release is denied without prejudice.

Dated: June 15, 2020
Detroit, Michigan

s/Bernard A. Friedman
Bernard A. Friedman
Senior United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on June 15, 2020.

James Dwight Lewis, 28192-039
Lompoc Federal Correctional Institution
3600 Guard Road
Lompoc, CA 93436

s/Johnetta M. Curry-Williams
Case Manager